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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Nora FEMENIA et al. Application: 09/711,578
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Examiner : Pierre E. ELISCA Group Art Unit: 3621
For : AUTOMATED CROSS-CULTURAL CONFLICT MANAGEMENT

DECLARATION OF COLIN RULE

1. I am Director of Online Dispute Resolution for ebay. My work address is 2211 N. First Street, San Jose, CA 95124. My email address is crule@ebay.com.
2. I have worked in the dispute resolution field for more than a decade as a mediator, trainer and consultant. I am a Fellow at the Center for Information Technology and Dispute Resolution at UMass-Amherst. I hold a Master's degree from Harvard University's Kennedy School of Government in conflict resolution and technology, a B.A. in Peace Studies from Haverford College, and have completed advanced coursework in dispute resolution at the University of Massachusetts-Boston.
3. I co-founded Online Resolution, an online dispute resolution provider, in 1999 and served as its CEO (2000) and President. In 2002, I co-founded the Online Public Disputes Project, which applied ODR to multiparty, public disputes. Previously, I was General Manager of Mediate.com, the largest online resource for the dispute resolution field.
4. I have presented and trained throughout Europe and North America for organizations including the Federal Mediation and Conciliation Service, the Department of State, the International Chamber of Commerce, and the Center for Public Resources. I have lectured and taught at UMass-Amherst, Bentley College, MIT, Southern Methodist University, the University of Ottawa, Lasell College, and Brandeis University. I am the author of *Online Dispute Resolution for Business*, published by Jossey-Bass in September 2002. I have contributed more than 30 articles to prestigious ADR publications such as *Consensus*, *The Fourth R*, *ACR News*, and *Peace Review*. I am skilled in the art of dispute resolution.

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5. I have reviewed U.S. Patent No. 6,553,347 (Tavor), Automatic Virtual Negotiation. This reference describes a system that automatically price haggles with a user in an attempt to arrive at a purchase agreement.
6. In my opinion, techniques used for pre-sale negotiation are not relevant to techniques used for conflict management, for at least the following reasons:
 - a. different powers – in a pre-sale negotiation, the buyer can always decline to purchase, so this gives the buyer and the seller a rough power equality, as they can both unilaterally decide not to take part. In contrast, after a sale occurs and a dispute arises, the buyer usually has relatively little power while the seller has relatively great power. Negotiations where the parties have equal power are substantively different than negotiations where the parties have unequal power.
 - b. different objectives – in a pre-sale negotiation, the objective is to arrive at a purchase agreement. In contrast, in a post-sale dispute, the objective is to deal with the dissatisfaction of one party. Pre-sale negotiating processes are significantly different from direct communication processes intended to address customer dissatisfaction.
 - c. different emotional issues – in a pre-sale negotiation, the parties are concerned with defining deal terms, whereas in dispute resolution, emotional communication and problem resolution are major components of the process. Since pre-sale negotiation is mainly devoid of emotional communications, techniques for pre-sale negotiation are largely irrelevant to dispute resolution techniques focusing on emotional communication and problem resolution. In particular, Tavor's system merely offers price reductions or other benefits to secure a sale (column 4, lines 25-35) and is silent as to explicitly managing the buyer's emotions.
 - d. different players – in a pre-sale negotiation, the involved parties are the buyer and seller and possibly their agents. In contrast, in dispute resolution, there is usually a third party, referred to as a mediator or arbitrator or negotiation assistant depending on their particular function, who is neutral relative to the parties having the dispute and the subject of the conflict. The dispute resolver plays a role much different than the parties in a pre-sale negotiation, so pre-sale negotiating techniques are not relevant to the dispute resolver.

7. In my opinion, one of ordinary skill in the art of dispute resolution seeking to automate the dispute resolution process would not be motivated to look to Tavor, which relates to a system for pre-sale price haggling, for at least the reasons discussed above.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18 of the United States Code, Section 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

9/22/04

Date



Colin Rule